
CITY COUNCIL REPORT

TO: Lisa Takata, Deputy City Manager

FROM: Lionel D. Lyons, Director
Equal Opportunity Department

SUBJECT: BACKGROUND INFORMATION FOR ITEM #2 ON THE FEBRUARY 26,
2013 CITY COUNCIL POLICY AGENDA REGARDING PROPOSED
REVISIONS TO THE PHOENIX HUMAN RELATIONS ORDINANCE

This report provides background information for Item #2 on the February 26, 2013 City Council Policy Agenda regarding proposed revisions to the Phoenix Human Relations Ordinance.

THE ISSUE

The City of Phoenix Human Relations Ordinance prohibits discrimination in employment, public accommodations, housing, and certain contracts with the City. These non-discrimination provisions include the following categories:

(1) Employment and (2) Public Accommodations: race, color, religion, sex, national origin, age, genetic information, or marital status;

(3) Housing: race, color, religion, sex, familial status, national origin, handicap, pregnancy or domicile of a minor;

(4) City Construction Contracts and (5) City Supplier and Lessee Contracts: race, color, religion, sex, national origin, age, or disability.

The proposed changes will add “sexual orientation” and “gender identity or expression” to all five provisions, and also will add “disability” to provisions 1 and 2 (provisions 3 through 5 already contain disability).

The proposed amendments will not change the scope or exemptions from the current ordinances. The ordinances will continue to contain exemptions for religious organizations, small private landlords, senior housing, and private clubs, among others.

A summary of proposed ordinance amendments to Chapter 18, Sections 18-1 to 18-20, of the Phoenix City Code is presented as Attachment A.

OTHER INFORMATION

The proposed changes will add new standard definitions for protected categories:

- “*Disability*” means with respect to an individual, except any impairment caused by current use of illegal drugs, any of the following: a physical or mental impairment that substantially limits one or more major life activities of the individual, a record of such physical or mental impairment, or being regarded as having such physical or mental impairment. Disability and disability discrimination shall be interpreted in a manner consistent with the Americans with Disabilities Act of 1990 (as amended), the federal regulations promulgated thereunder, and judicial decisions construing them.
- “*Gender*” means the socially constructed roles, behaviors, characteristics, or attributes associated with masculinity or femininity.
- “*Gender identity or expression*” means an individual’s self-identification as male, female, or something in between, and shall include an individual’s appearance, mannerisms, or other characteristics only insofar as they relate to gender with or without regard to the individual’s designated sex at birth.
- “*Sex*” means biological or anatomical sex as male or female as designated at birth and shall be interpreted broadly to include all distinctions based upon gender, pregnancy, childbirth, or medically related conditions.
- “*Sexual orientation*” means an enduring pattern of emotional, romantic, or sexual attractions to men, women, or both sexes as well as the genders that accompany them and shall include discrimination based upon the identification, perception, or status of an individual’s same-sex, opposite-sex, or bisexual orientation.

The Phoenix Human Relations Commission and Phoenix Mayor's Commission on Disability Issues on Tuesday, February 12, 2013, held a joint public meeting to solicit public comment on the ordinance changes. A majority of city residents that attended the meeting spoke in favor of the proposed changes. The commissions voted unanimously to accept the proposed changes to the ordinance, as presented.

RECOMMENDATION

Staff recommends the amendment of Chapter 18, Sections 18-1 to 18-20, of the Phoenix City Code to add “sexual orientation,” “gender identity or expression,” and “disability” as three additional categories protected from discrimination, as recommended by City staff.

Please note the following attachments:

Attachment A – Summary of Proposed Ordinance Amendments

Attachment B – U. S. Cities and Counties with Non-Discrimination Ordinances

**SUMMARY OF PROPOSED AMENDMENTS TO CHAPTER 18, SECTIONS
18-1 TO 18-20 OF THE PHOENIX CITY CODE**

Article 1- In General

The proposed changes expand the protected categories to include disability, sexual orientation, and gender identity or expression for employment and public accommodation complaints.

Current Ordinance	Proposed Changes
Race, color, religion, sex, national origin, age, genetic information, and marital status are covered.	Add "sexual orientation," gender identity or expression," and "disability" as protected categories.
There is no definition of "disability" or "gender identity or expression." "Employer" includes vendors, suppliers, or contractors doing business with the City if they employ more than 35 employees.	Add definitions of "disability," "gender," "gender identity or expression" and clarify definitions of "sex" and "sexual orientation."
Current ordinance creates ability to file complaint with Police Department.	Amend to eliminate the Police Department's role in taking discrimination complaints. EOD would be identified as the entity responsible for such complaints, as has been the City's practice.

Article 2 - Sexual Orientation Nondiscrimination

The proposed changes expand the protection for City employees to include gender identity or expression for employment and provision of City services discrimination complaints.

Current Ordinance	Proposed Changes
Current ordinance does not include protection for "gender identity or expression."	Amend sections on City employment and providing City services to add protection for "gender identity or expression."

Article 3 - Fair Housing

The proposed changes would expand the protected categories to include sexual orientation and gender identity or expression for fair housing discrimination complaints. The proposed changes would also replace references to the words "handicap" or "handicapped." The Equal Opportunity Department (EOD) investigates allegations of discrimination for housing providers located in the city of Phoenix and receives funding from HUD for its investigations. The current ordinance is substantially equivalent to the federal fair housing law.

Current Ordinance	Proposed Changes
Current ordinance does not include protection for “sexual orientation” or “gender identity or expression.”	Add “sexual orientation” and “gender identity or expression.” Replace references to “handicap” or “handicapped” with “disability” or “disabled.”

Article 4 - City Construction Contractor’s Equal Employment Opportunity Requirement

The proposed changes expand the non-discrimination and contract language requirement to include sexual orientation and gender identity or expression.

Current Ordinance	Proposed Changes
Current ordinance does not include a requirement not to discriminate based on sexual orientation or gender identity or expression as a requirement for contracts greater than \$10,000.	Add “sexual orientation” and “gender identity or expression” as protected categories, along with their respective definitions.

Article 5 - Supplier’s and Lessee’s Equal Employment Opportunity Requirements

The proposed changes expand the non-discrimination and contract language requirement to include sexual orientation and gender identity or expression.

Current Ordinance	Proposed Changes
Current ordinance does not include a requirement not to discriminate based on sexual orientation or gender identity or expression.	Add “sexual orientation” and “gender identity or expression” as protected categories, along with their respective definitions. Maintain the exemptions set forth in Section 18-20.

**CITIES AND COUNTIES WITH NON-DISCRIMINATION
ORDINANCES THAT INCLUDE GENDER IDENTITY**

As of January 15, 2013, more than 165 cities and counties prohibit employment discrimination on the basis of gender identity in employment ordinances that govern all public and private employers in those jurisdictions. This list does not include those cities and counties that prohibit discrimination on the basis of gender identity for city and county employees - such policies do not affect private employers in those jurisdictions.

Cities and Counties that Prohibit Discrimination Based on Gender Identity in Public and Private Employment, By State (Year Effective).

Arizona

City of Tucson -1999

California

Allegheny County-2009
Santa Cruz County-1998
City of Los Angeles-1979
City of Oakland-2005
City of San Diego-2003
City of San Francisco-1994
City of San Jose-2002
City of Santa Cruz-1992
City of West Hollywood-1998

Colorado

City of Boulder-2000
City of Denver-2001

District of Columbia

City of Washington-2006

Florida

Broward County-2008
Leon County-2010
Monroe County-2003
Palm Beach County-2007
Volusia County-2011
City of Dunedin-2002
City of Gainesville-2008
City of Gulfport-2005
City of Key West-2003
City of Lake Worth-2007

City of Miami Beach-2004
City of Oakland Park-2007
City of Tampa-2009
City of West Palm Beach-2007

Georgia

City of Atlanta-2000
City of Decatur-2002

Idaho

City of Sandpoint-2011

Illinois

Cook County-2002
City of Bloomington-2002
City of Boise-2012
City of Carbondale-2005
City of Champaign-1977
City of Chicago-2002
City of Decatur-2002
City of DeKalb-2000
City of Evanston-1997
City of Peoria-2003
City of Springfield-2003
City of Urbana-1979

Indiana

Marion County-2005
Monroe County-2010
City of Bloomington-2006
City of Evansville-2011
City of Indianapolis-2005
City of South Bend-2012

Iowa

Johnson County-2006
City of Council Bluffs-2008
City of Iowa City-1995
City of Waterloo-2007

Kansas

City of Lawrence-2011

Kentucky

Jefferson County-1999
Lexington-Fayette County-1999

City of Covington-2003
City of Louisville-1999
City of Vicco-2013

Louisiana

City of New Orleans-1998

Massachusetts

City of Boston-2002
City of Cambridge-1997
City of Northampton-2005

Maryland

City of Baltimore-2002
Howard County-2011
Montgomery County-2007

Michigan

City of Ann Arbor-1999
City of Detroit-2008
City of East Lansing-2005
City of Ferndale-2006
City of Grand Rapids-1994
City of Huntington Woods-2002
City of Kalamazoo-2009
City of Lansing-2006
City of Saugatuck-2007
City of Traverse-2011
City of Ypsilanti-1997

Minnesota

City of Minneapolis-1975
City of St. Paul-1990

Missouri

City of Clayton-2011
City of Columbia-2011
City of Kansas City-2008
City of Kirkwood-2012
City of Olivette-2011
City of St. Louis-2010
County of St. Louis-2012
City of University City-2005

Montana

City of Missoula-2010

Nebraska

City of Omaha-2012

New York

City of Albany-2004

City of Buffalo-2002

City of Ithaca-2003

City of New York-2002

City of Rochester-2001

Suffolk County-2001

Tompkins County-2005

Ohio

City of Akron-2009

City of Bowling Green-2008

City of Cincinnati-2006

City of Cleveland-2009

City of Columbus-2008

City of Dayton-2007

City of Oxford-2008

Summit County-2009

City of Toledo-1998

Village of Yellow Springs-2009

Oregon

Benton County-1998

City of Beaverton-2004

City of Bend-2004

Benton County-1998

City of Corvallis-2007

City of Hillsboro-2006

City of Lake Oswego-2005

City of Lincoln City-2005

Multnomah County-2001

City of Portland-2000

City of Salem-2002

Pennsylvania

City of Allentown-2002

City of Bethlehem-2011

City of Doylestown-2011

City of Easton-2006

Erie County-2002
City of Harrisburg-1983
Haverford Township-2011
Jenkinstown Borough-2011
Lansdowne Borough-2006
Lower Marion Township-2011
New Hope Borough-2002
Newton Borough-2011
City of Philadelphia-2002
City of Pittsburgh-1997
City of Scranton-2005
Springfield Township-2011
State College Borough-2007
Susquehanna Township-2011
City of Swarthmore-2006
West Chester Borough-2006
Whitemarsh Township-2011
City of York-1998

South Carolina

City of Charleston-2009
City of Columbia-2008

Texas

City of Austin-2004
City of Dallas-2002
Dallas County-2011
City of Fort Worth-2009

Utah

City of Alta-2011
Grand County-2010
City of Harrisville-2012
City of Logan-2010
City of Midvale-2011
City of Moab-2011
City of Murray-2011
City of Ogden-2011
City of Park City-2010
Salt Lake County-2010
City of Salt Lake-2009
City of Springdale-2012
Summit County-2010
City of Taylorsville-2010
City of West Valley-2010

Washington

City of Burien-2005

King County-2006

City of Olympia-2005

City of Seattle-1986

City of Tacoma-2002

West Virginia

City of Charleston-2007

Wisconsin

Dane County-2001

City of Madison-2000

City of Milwaukee-2007

Source: Human Rights Campaign 2013